REMARKS

Applicants acknowledge and appreciate the Decision of the Panel to reopen prosecution on the merits of Applicant's arguments Presented in the Pre-Appeal Brief filed November 17, 2008. Applicants acknowledge that prosecution has been reopened and a non-final office action has been issued, presenting new grounds of rejection in view of ***Agarwal*** (US 5,822,749) and ***Motoyama*** (US 5,578,090).

Claims 1, 12 and 13 are currently amended. Claims 1-20 remain pending in the application. Claims 8-11 and 17-20 are allowed. Claims 1-3, 12-14 and 16 are rejected. Claims 4-7 and 15 are objected to as being dependent upon a rejected base claim. Claims 5-7 are dependent to claim 4, therefore, are objected under the same rationale.

Pending Patent Applications

Applicants respectfully note that some portions of the disclosure of the present application are related to some portions of the disclosure of U.S. Patent Application Serial No. 09/999,881 filed on October 31, 2001, and U.S. Patent Application Serial No. 10/044,667, filed on January 11, 2002. Further, a Terminal Disclaimer was filed in the course of prosecution of U.S. Patent Application Serial No. 10/044,667 with respect to U.S. Patent Application Serial No. 09/999,881. However, the filing of the Terminal Disclaimer was not an admission that the claims were related, but was filed to move prosecution forward. *Quad Environmental Technologies Corp. vs. Union Sanitary District,* 946 F.2d 870, 20 USPQ2d 1392 (Fed Cir. 1991). See, *e.g.*, MPEP §804.03.

Claim Rejections – 35 USC §103

Claims 1-3, 12-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,926,476 ***(Covey)*** in view of US 5,578,090 ***(Motoyama)*** and further in view of US 5,822,749 ***(Agarwal)***. Applicants respectfully traverse this rejection.

Claim Rejections – 35 U.S.C. §103

For ease of illustration, claim 1 is discussed first. As currently amended, claim 1, directed to a method, calls for establishing a security level for said software object, wherein the security level is directly related to said software object. Support for the current amendment may be found in the Specification, for example, on page 13, line 23 through page 14, line 8 (stating, as an example, "The multi-level lookup table 530 stores security attributes associated with each page 510 of memory."). One of skill in the art would recognize that security levels associated with data objects could be either directly or indirectly related; in fact, the Examiner relies heavily on ***Covey*** which discloses indirect association. *See* ***Covey***, col. 4, ll. 25-28.

In the Current Office Action, the Examiner maintains that ***Covey*** teaches this feature because ***Covey*** describes a computer system only allowing an un-trusted program access to certain levels of data. *See* Current Office Action, pp. 2-3. ***Covey*** teaches that a *hardware comparison of data storage blocks* is used to determine whether an un-trusted program may read/write to certain data. *See, e.g.,* ***Covey***, Abstract. In other words, the security level of data storage blocks, not software objects, is determined by ***Covey***. ***Covey*** also teaches that the un-trusted program need not be examined by the computer system in order to maintain security. *Id.* As such, and contrary to the Examiner's position, ***Covey*** does not, and cannot, teach establishing a security level for said software object, wherein the security level is directly related to said software object, as called for in claim 1. ***Motoyama*** and ***Agarwal*** fail to remedy this deficiency.

Further, claim 1, directed to a method, calls for establishing a security level for said software object, wherein the security level is directly related to said software object. To the

extent it is the Examiner's position that ***Covey*** teaches security levels of a software object, with which Applicants respectfully disagree, Applicants assert that there is no teaching or suggestion in ***Covey*** of establishing a security level directly related to the software object, as called for in currently amended claim 1. In fact, ***Covey*** explicitly teaches that "sensitivity levels" are not directly related to the software objects ("subjects," as the term is used in ***Covey***):

> The proposed mechanism relies upon sensitivity labels associated with all storage blocks accessible to subject processes (programs). Sensitivity levels are only indirectly associated with subjects. ***Covey***, col. 4, ll. 25-28.

As is evident from the disclosure in ***Covey***, this reference does not teach of establishing a security level directly related to the software object, as called for in currently amended claim 1. Moreover, ***Motoyama*** and ***Agarwal*** fail to remedy this deficiency.

For at least these reasons, claim 1 and its dependent claims [2-7] are allowable. For at least similar reasons, claims 12 and 13, along with their respective dependent claims ([ ] and [14-16]), are also allowable.

Applicants respectfully assert that ***Covey***, ***Motoyama*** and ***Agarwal***, and/or their various combinations, do not teach or disclose all of the elements of claim 1-3, 12-14 and 16 of the present invention. In order to establish a *prima facie* case of obviousness, the Examiner must consider the following factors: 1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings; 2) there must be a reasonable expectation of success; and 3) the prior art reference(s) must teach or suggest all the claim limitations. MPEP § 2143 (2005) (citing *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). In making an obviousness rejection, it is necessary for the Examiner to identify the reason why a person of ordinary skill in the art would have combined the prior art references in the manner set forth in the claims. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007). Applicants respectfully submit

that the Examiner has not met this burden. If fact, as illustrated below, ***Covey*** , ***Motoyama*** and ***Agarwal*** would not be combined in the manner set forth in the claims. Further, the Examiner has failed into identify why those skilled in the art would combine ***Covey***, ***Motoyama*** and ***Agarwal***. Further, as discussed above, even if ***Covey***, ***Motoyama*** and ***Agarwal*** were combined, all elements of claims 1-3, 12-14 and 16 would not be taught or made obvious by this combination. Accordingly, Applicants respectfully submit that a *prima facie* case of obviousness has not been established in rejecting claims 1-3, 12-14 and 16.

Those skilled in the art simply would not be motivated to combine ***Couleur*** with ***Agarwal***. The Examiner has failed to identify any particular reason to provide such a combination to make obvious any of the claims of the present invention. ***Agarwal*** is subject matter that relates to improving execution speed of database by optimizing use of buffer caches. In contrast, ***Covey*** is directed to execution of untrusted software but only discloses security levels relating to data and not to the software object. In fact, as described above, ***Covey*** explicitly states that software need not be examined before handing secure data. Those skilled in the art simply would not find any reason to combine these to cited prior art references to make obvious any of the claims of the present invention. The Examiner has failed to provide or identify any such reasons. The Examiner essentially provided a conclusory statement that adding the features of these references together would make for a better product; *i.e.*, the Examiner has simply stated the result of such a combination. *See Final Office Action*, p.3 (stating that the combination would "improv[e] computer security" and to "maintain proper labeling of data at multiple security levels and proper control of access…."). The Examiner has not pointed to any teachings in the cited references that would **motivate** a person of skill in the art to combine the references. In other words, the question that must be addressed includes "***why*** would a person have thought to combine the cited references based on their teachings?", not

simply "what benefits would result?". Motivation to combine aside, as discussed above, even if ***Covey*** and ***Agarwal*** were to be combined, claim 1 as a whole would be untaught and non-obvious over the references.

Without using improper hindsight reasoning, those skilled in the art simply would not combine them in the manner claimed. Further, as described above, the combination of ***Covey***, ***Motoyama*** and ***Agarwal*** still would not disclose, teach, or make obvious all of the elements of claim 1 of the present invention. Applicants have pointed to several factors why those skilled in the art simply would not combine ***Covey*** and ***Agarwal*** in the manner claimed by claim 1of the present invention. Accordingly, claim 1 of the present invention is allowable for at least the reasons cited herein.

Claim 12 calls for an apparatus that comprises means for performing a multi-table I/O space access using at least one of a directly related security level that may be established for said software object being executed. Therefore, as described above, ***Covey***, ***Motoyama*** and ***Agarwal***, or any combination thereof, do not disclose or make obvious means for performing a multi-table (I/O) space access. Accordingly, claim 12 of the present invention is allowable.

Claim 13 calls for an (I/O) access interface that is coupled to a bus and a memory unit wherein the memory access interface is capable of providing a processor of a multi-level table I/O space access to access a portion of the memory unit based upon a directly related security level. As described above, ***Covey***, ***Motoyama*** and ***Agarwal***, or any combination thereof, do not disclose or make obvious the multi-level table I/O space access. Accordingly, all of the elements of claim 13 of the present invention are not taught, disclosed, or made obvious by ***Covey***, ***Motoyama*** and ***Agarwal***. Therefore, claim 13 of the present invention is allowable.

Accordingly, independent claims 1, 12, and 13 are allowable for at least the reasons cited above. Additionally, dependent claims 2-7, 9-11, 14-16, and 18-20, which respectively depend from claims 1, 8, 12, 13, and 17, are also allowable for at least the reasons cited above.

Further, Applicants acknowledge and appreciate that the Examiner has allowed claims 8-11 and 17-20. Further, Applicants appreciate that claims 4, 15, 5-7 contain allowable subject matter, as indicated by the Examiner. Additionally, in light of the arguments provided herein, all pending claims of the present invention are allowed.

Reconsideration of the present application is respectfully requested. In light of the arguments presented above, a Notice of Allowance is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, **the Examiner is requested to call the undersigned attorney at the Houston, Texas telephone number (713) 934-4069** to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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